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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/477,764	01/04/2000	CHIA-HONG JAN	042390.P5488	9702

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EXAMINER

VU, HUNG K

ART UNIT

PAPER NUMBER

2811

DATE MAILED: 08/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/477,764	JAN ET AL.	
Examiner	Art Unit		
Hung K. Vu	2811		

## ***Office Action Summary***

... The MAILING DATE of this communication app is on the 000 FEB 1994. This app corresponds to case 11.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 June 2002 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 8,10-12,14 and 123-128 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 8,10-12,14,123-128 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Request for Continued Examination***

1 A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 06/20/02 has been entered. An action on the RCE follows.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 8, 10 – 12, 14 and 123-124 are rejected under 35 U.S.C. 102(a) as being anticipated by Matsumoto et al. (PN 5,726,479, of record).

Matsumoto et al. discloses, as shown in Figures 8 and 18, a gate electrode comprising, a gate layer (4a) disposed above a substrate (1), the gate layer having a substantially level upper surface; a conductive layer (9a) disposed over the gate layer, the conductive layer extending beyond edges of the gate layer;

thin first spacers (5) disposed in contact with opposite sides of the gate layer and below the conductive layer;

thick second spacers (7a) disposed in contact with the thin first spacers, each thick second spacer having a uniform width throughout its height.

With regard to claim 10, Matsumoto et al. discloses the gate layer comprises polysilicon.

With regard to claim 11, Matsumoto et al. discloses the conductive layer comprises polycide.

With regard to claim 12, Matsumoto et al. discloses the thin first spacers comprise oxide.

With regard to claim 14, Matsumoto et al. discloses the polycide comprises titanium salicide ( $TiSi_2$ ).

With regard to claim 123, Matsumoto et al. discloses the thick second spacers comprise nitride.

With regard to claim 124, Matsumoto et al. discloses the thin first spacers are at least as high as the thick second spacers.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 125 – 128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. (PN 5,726,479, of record).

Matsumoto et al. discloses the thick second spacers are 300 Å. Matsumoto et al. does not teach exactly the thickness of the thick second spacers and/or the ratio between the thick second spacers and the thin first spacers, as that claimed by Applicants, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the thick second spacers and the thin first spacers of Matsumoto et al. having a desire thickness and ratio, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

#### *Response to Arguments*

4. Applicant's arguments with respect to claim 8 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung K. Vu whose telephone number is (703) 308-4079. The examiner can normally be reached on Mon-Thurs 7:00-5:30, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (703) 308-2772. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Vu

August 6, 2002

*Tom Thomas*  
TOM THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800